

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

GOVERNMENT

V.

CRIMINAL ACTION NO: 1:16CR10

ROBERT E. SIMMONS

DEFENDANT

TRANSCRIPT OF PLEA HEARING

BEFORE HONORABLE HALIL S. OZERDEN
UNITED STATES DISTRICT JUDGE

FEBRUARY 18, 2016
GULFPORT, MISSISSIPPI

COURT REPORTER:

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APPEARANCES:

REPRESENTING THE GOVERNMENT:

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REPRESENTING THE DEFENDANT:

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1 **THE COURT:** We are here this afternoon in case number
2 1:16cr10, United States versus Robert Simmons, scheduled for a
3 change of plea. Would counsel please make their appearances
4 for the record?

5 **MR. GOLDEN:** Your Honor, Jay Golden on behalf of the
6 government. And I also have at the table with me FBI agents
7 Molly Blythe and Tye Breedlove, if the Court please.

8 **THE COURT:** Good afternoon.

9 **MR. HIGHTOWER:** Good afternoon, Your Honor. K. C.
10 Hightower on behalf of Robert Simmons. Mr. Simmons is present
11 with me at counsel table today.

12 **THE COURT:** Good afternoon, Mr. Hightower.

13 **MR. HIGHTOWER:** Good afternoon, Judge.

14 **THE COURT:** Mr. Golden, pursuant to the Crime Victims
15 Rights Act, are there any victims of this offense?

16 **MR. GOLDEN:** Just the government in this case, Your
17 Honor.

18 **THE COURT:** All right. Do we have the original
19 executed copies of the plea documents?

20 **MR. HIGHTOWER:** Your Honor, we -- the answer to that
21 question is yes. Mr. Simmons and I executed the documents back
22 in December, and we have those. And then Mr. Golden presented
23 me with a current set that he represents are identical, and he
24 has already executed those. So that the date matches the
25 hearing, we will just sign them again, if that's okay.

1 **THE COURT:** That's fine.

2 **MR. GOLDEN:** For the record, the original didn't
3 contain the cause number because we needed it before we filed
4 the information.

5 **THE COURT:** But in other respects, it is identical?

6 **MR. GOLDEN:** It is.

7 **THE COURT:** All right.

8 **MR. HIGHTOWER:** The documents have been executed,
9 Your Honor.

10 **THE COURT:** All right. If you will approach, Mr.
11 Hightower, and hand those to the court security officer,
12 please.

13 All right. I've reviewed the plea agreement and the plea
14 supplement. They've been executed by counsel for the
15 government, as well as counsel for the defendant. At this
16 time, Mr. Hightower, if you and your client would approach the
17 podium, I will ask him to raise his right hand, take the oath
18 and be sworn in, and we will get started.

19 (DEFENDANT SWORN).

20 **THE COURT:** Sir, would you please -- you can put your
21 hand down. Would you please state your full name for the
22 record?

23 **THE DEFENDANT:** Robert Earl Simmons.

24 **THE COURT:** Mr. Simmons, do you understand that you
25 are now under oath and that if you answer any of my questions

1 here today falsely, your answers may later be used against you
2 in another prosecution for perjury or making a false statement.
3 Do you understand that, sir?

4 **THE DEFENDANT:** I do, Your Honor.

5 **THE COURT:** Are you able to read, speak and
6 understand the English language?

7 **THE DEFENDANT:** Yes, Your Honor.

8 **THE COURT:** And are you a citizen of the United
9 States?

10 **THE DEFENDANT:** Yes, Your Honor.

11 **THE COURT:** If at any point this afternoon you do not
12 understand something I say or a question I ask, please let me
13 know. I'm happy to repeat myself. Also, if at any point you
14 would like to stop and confer with your attorney, I'm happy to
15 let you do that as well. Just let me know that. Do you
16 understand all of that, sir?

17 **THE DEFENDANT:** Yes, Your Honor.

18 **THE COURT:** The first thing I have to do this
19 afternoon is establish what we refer to as your competence to
20 enter a plea. That means I need to ask you a few questions to
21 establish that what you are doing here today is a knowing and a
22 voluntary act and that you understand what it is you are doing.
23 So I will begin with a few of those questions.

24 How old are you, sir?

25 **THE DEFENDANT:** Sixty years old, Your Honor.

1 **THE COURT:** And how far did you go in school?

2 **THE DEFENDANT:** To the graduate degree level.

3 **THE COURT:** And you are able to read and write,
4 correct?

5 **THE DEFENDANT:** Yes, Your Honor.

6 **THE COURT:** Have you been treated recently for any
7 mental illnesses or addictions to alcohol or narcotic drugs of
8 any kind?

9 **THE DEFENDANT:** No, Your Honor.

10 **THE COURT:** Have you ever been treated for any mental
11 illnesses or addictions to alcohol or narcotic drugs of any
12 kind?

13 **THE DEFENDANT:** No, Your Honor.

14 **THE COURT:** As you stand here today, are you
15 currently under the influence of any drug, alcoholic beverage,
16 prescription medication or any other substance that would
17 affect your ability to understand what is taking place here?

18 **THE DEFENDANT:** No, Your Honor.

19 **THE COURT:** Are you capable of consulting with your
20 attorney and understanding what it is he is telling you?

21 **THE DEFENDANT:** Yes, Your Honor.

22 **THE COURT:** Do you understand why we are here and
23 what is happening?

24 **THE DEFENDANT:** Yes, Your Honor.

25 **THE COURT:** And do you understand the seriousness of

1 these proceedings?

2 **THE DEFENDANT:** Yes, Your Honor.

3 **THE COURT:** Do you understand that the purpose of
4 your appearance this afternoon is to enter a plea of guilty to
5 the one-count bill of information? Do you understand that?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** Mr. Hightower, have you met with your
8 client?

9 **MR. HIGHTOWER:** Yes, sir.

10 **THE COURT:** In your opinion, is he capable of
11 understanding these proceedings and your advice?

12 **MR. HIGHTOWER:** Without a doubt, Your Honor.

13 **THE COURT:** Is there any question in your mind about
14 his competence to enter a plea?

15 **MR. HIGHTOWER:** No, Your Honor.

16 **THE COURT:** Mr. Golden, is the government aware of
17 any issues with respect to Mr. Simmons' competence to enter a
18 plea?

19 **MR. GOLDEN:** No, Your Honor.

20 **THE COURT:** Mr. Simmons, the first thing I have to
21 discuss with you before we begin the actual plea colloquy is
22 your willingness or desire to waive or give up your right to
23 grand jury presentment and indictment. You may have already
24 discussed this with the Magistrate Judge, but I need to review
25 it with you as well.

1 Now, no person under our system of justice can be charged
2 with a felony offense unless a grand jury first hears evidence
3 and based upon that evidence decides that there is probable
4 cause to believe that a crime has been committed and that you
5 committed that crime. You can, if you wish, waive or give up
6 the right to grand jury presentment and indictment and permit a
7 charge to be brought against you by way of an information,
8 which is what has occurred in your case.

9 If you were to decide that you did not wish to waive grand
10 jury presentment and indictment, there is nothing that would
11 prevent the government from presenting your case to the grand
12 jury and seeking an indictment.

13 The grand jury is a group of people not less than 16 and
14 not more than 23, and at least 12 of those people, after
15 hearing evidence, would have to agree that based upon that
16 evidence, there is probable cause to believe that a crime has
17 been committed and that you committed that crime before you
18 could be indicted.

19 No one can presume to know what a grand jury will do in
20 any particular case. Their proceedings are secret. Their
21 deliberations are secret as well. You could be indicted. On
22 the other hand, you might not be. But if you permit this case
23 to proceed today on the information, it will proceed just as
24 though the grand jury had actually met and just as though the
25 grand jury had actually returned an indictment.

1 Have you discussed your right to grand jury presentment
2 and indictment with your attorney, Mr. Simmons?

3 **THE DEFENDANT:** Yes, Your Honor.

4 **THE COURT:** Have you asked him any and all questions
5 you may have had about it?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** Did you understand his answers?

8 **THE DEFENDANT:** Yes, Your Honor.

9 **THE COURT:** Do you fully understand your right to
10 grand jury presentment and indictment?

11 **THE DEFENDANT:** Yes, Your Honor.

12 **THE COURT:** And has anyone in any way forced you or
13 threatened you or made any other kinds of promises to cause you
14 to waive your right to grand jury presentment and indictment?

15 **THE DEFENDANT:** No, Your Honor.

16 **THE COURT:** Mr. Hightower, have you fully counseled
17 with your client regarding his willingness to give up the right
18 to grand jury presentment and indictment?

19 **MR. HIGHTOWER:** Yes, I have, Your Honor.

20 **THE COURT:** Are you satisfied that he understands and
21 is voluntarily giving up that right?

22 **MR. HIGHTOWER:** Yes, Your Honor.

23 **THE COURT:** Did you go through this same colloquy
24 with the Magistrate Judge?

25 **MR. HIGHTOWER:** We did, Your Honor.

1 **THE COURT:** Was there a waiver of indictment form
2 executed?

3 **MR. HIGHTOWER:** Yes, there was, Your Honor.

4 **THE COURT:** And has it been filed?

5 **MR. HIGHTOWER:** I suspect it's been filed, Your
6 Honor.

7 **THE COURT:** Mr. Simmons, based upon the rights I've
8 just described to you, do you have any questions about your
9 right to grand jury presentment and indictment?

10 **THE DEFENDANT:** No, Your Honor.

11 **THE COURT:** Is it your willingness at this time to
12 waive your right to grand jury presentment and indictment? Is
13 that what you wish to do?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** It is the finding of the Court that the
16 defendant, Mr. Simmons, has knowingly and voluntarily waived
17 the right to grand jury presentment and indictment, and the
18 Court will therefore proceed based upon the information here
19 this afternoon. Mr. Simmons, have you received a copy of the
20 information pending against you in this case, that is, the
21 written charges brought against you by the government?

22 **THE DEFENDANT:** Yes, Your Honor.

23 **THE COURT:** Have you had an opportunity to review the
24 information with your attorney and fully discussed the charges
25 in it with your attorney?

1 **THE DEFENDANT:** Yes, Your Honor.

2 **THE COURT:** Were you able to ask your attorney any
3 and all questions you may have had about the charges in the
4 information?

5 **THE DEFENDANT:** Yes, Your Honor.

6 **THE COURT:** Did you understand his answers?

7 **THE DEFENDANT:** Yes, Your Honor.

8 **THE COURT:** Has your attorney also discussed with you
9 possible defenses, if any, that you might have to these
10 charges?

11 **THE DEFENDANT:** Yes, Your Honor.

12 **THE COURT:** Were you able to ask your attorney any
13 and all questions you may have had about that subject?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** Did you understand his answers?

16 **THE DEFENDANT:** Yes, Your Honor.

17 **THE COURT:** Has your attorney also discussed with you
18 possible witnesses, if any, who could be called to testify in
19 your defense to these charges?

20 **THE DEFENDANT:** Yes, Your Honor.

21 **THE COURT:** Were you able to ask your attorney any
22 and all questions you may have had about that subject?

23 **THE DEFENDANT:** Yes, Your Honor.

24 **THE COURT:** And did you understand his answers?

25 **THE DEFENDANT:** Yes, Your Honor.

1 **THE COURT:** Did your attorney also review and discuss
2 with you the evidence that the government intended to produce
3 at trial to support the charges against you?

4 **THE DEFENDANT:** Yes, Your Honor.

5 **THE COURT:** And were you able to ask your attorney
6 any questions you may have had about that subject?

7 **THE DEFENDANT:** Yes, Your Honor.

8 **THE COURT:** Did you understand his answers?

9 **THE DEFENDANT:** Yes, I did.

10 **MR. HIGHTOWER:** Your Honor, for the record, the
11 procedural posture of this case is obviously such that there
12 has not been a formal exchange of discovery, but we have had
13 sufficient and lengthy conversations with the United States
14 Government over the last several months about the nature of the
15 proof that they would intend to place into the record, and I
16 have had those discussions with Mr. Simmons.

17 **THE COURT:** Is that correct, Mr. Simmons?

18 **THE DEFENDANT:** Yes, Your Honor.

19 **THE COURT:** Have you understood all of those
20 discussions with your attorney?

21 **THE DEFENDANT:** Yes. Yes, Your Honor.

22 **THE COURT:** Mr. Simmons, are you satisfied with the
23 amount of time you have been able to spend with your attorney?

24 **THE DEFENDANT:** Yes, Your Honor.

25 **THE COURT:** Are you satisfied with the amount of time

1 your attorney has spent working on your case?

2 **THE DEFENDANT:** Most definitely, Your Honor.

3 **THE COURT:** And so are you fully satisfied with the
4 counsel, representation and advice given to you in this case by
5 your attorney?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** If you have any complaints or objections
8 whatsoever regarding the services provided to you by your
9 attorney, now is the time to make those objections. Do you
10 have any?

11 **THE DEFENDANT:** No, Your Honor.

12 **THE COURT:** Now, I understand your willingness to
13 plead guilty this afternoon is the result of some discussions
14 that either you or your attorney have had with the attorney for
15 the government which have resulted in these two documents, the
16 written plea agreement and plea supplement. Is that correct?

17 **THE DEFENDANT:** Yes, Your Honor.

18 **THE COURT:** And is this your signature on the plea
19 agreement and the plea supplement?

20 **THE DEFENDANT:** Yes, Your Honor.

21 **THE COURT:** Did you have a full opportunity to read
22 and discuss the plea agreement and plea supplement with your
23 attorney before you signed those two documents?

24 **THE DEFENDANT:** Yes, Your Honor.

25 **THE COURT:** Were you able to ask your attorney any

1 and all questions you may have had about the plea agreement and
2 the plea supplement?

3 **THE DEFENDANT:** Yes, Your Honor.

4 **THE COURT:** Did you understand his answers?

5 **THE DEFENDANT:** Yes, I did, Your Honor.

6 **THE COURT:** Do you fully understand the terms of the
7 plea agreement and the plea supplement?

8 **THE DEFENDANT:** Yes, I do, Your Honor.

9 **THE COURT:** Mr. Hightower, do you agree that your
10 client understands the terms of the plea agreement and the plea
11 supplement?

12 **MR. HIGHTOWER:** Yes, Your Honor.

13 **THE COURT:** Now, at this time, I'm going to ask the
14 attorney for the government to state into the record some of
15 the key terms or highlights of your agreement with the
16 government. I want you to listen to what he has to say because
17 when he is finished, I'm going to ask you if you understand and
18 agree with these terms. Mr. Golden?

19 **MR. GOLDEN:** Your Honor, if the defendant waives
20 indictment and tenders a plea of guilty to a one-count
21 information filed in this case charging the defendant with the
22 bribery under Section 666 and agrees to make restitution to all
23 victims and fully cooperates with the United States, the United
24 States Attorney's Office for the Southern District of
25 Mississippi will recommend that the Court accept his plea of

1 guilty and at sentencing recommend that the Court impose a
2 sentence within the lower 25 percent of the applicable range
3 under the United States Sentencing Guidelines as computed by
4 the Court; additionally, inform the United States Probation
5 Office and the Court of this agreement, the nature and extent
6 of the defendant's activities with respect to this case and all
7 other activities of the defendant which the United States
8 Attorney deems relevant to sentencing, including the nature and
9 extent of the defendant's cooperation with the U. S. Attorney
10 and law enforcement.

11 With regard to the plea agreement, Your Honor, the
12 defendant has agreed to a number of waivers that are contained
13 in paragraph eight, the right to appeal the conviction under
14 3742, the right to contest the conviction in any type of
15 post-conviction proceeding under Title 28, Section 2255, any
16 type -- waives any type of proceeding claiming double jeopardy
17 or excessive penalty as a result of any forfeiture ordered or
18 to be ordered in this case -- I don't believe in this case
19 there is any forfeiture at issue, Your Honor -- any right to
20 seek attorneys fees and/or costs under the Hyde Amendment, and
21 the defendant acknowledges that the government's position in
22 the instant prosecution was not vexatious, frivolous or in bad
23 faith. He also waives all rights, whether asserted directly or
24 by a representative to request or receive from any department
25 or agency any records pertaining to the investigation or

1 prosecution of the case, including without limitation any
2 records that may be sought by the defendant or by the
3 defendant's representative under a FOIA request in Title 5,
4 United States Code, Section 552 or the Privacy Act of 1974.

5 The defendant also acknowledges and agrees that any
6 factual issues regarding the sentencing will be resolved by the
7 sentencing judge under a preponderance of the evidence
8 standard. And the defendant waives any right to a jury
9 determination of these sentencing issues. The defendant
10 further agrees that in making its sentencing decision, the
11 District Court may consider any relevant evidence without
12 regard to its admissibility under the rules of evidence
13 applicable at trial.

14 These are the highlights, Your Honor, of the waivers that
15 are present in the plea agreement and the recommendations that
16 the government would make in the plea supplement.

17 **THE COURT:** All right. Mr. Simmons, did you hear
18 everything the attorney for the government had to say?

19 **THE DEFENDANT:** Yes, Your Honor.

20 **THE COURT:** Did you understand everything he had to
21 say?

22 **THE DEFENDANT:** Yes, I do.

23 **THE COURT:** And do you agree with those terms?

24 **THE DEFENDANT:** Yes, I do, Your Honor.

25 **THE COURT:** Do you agree with those terms, Mr.

1 Hightower?

2 **MR. HIGHTOWER:** Yes, Your Honor.

3 **THE COURT:** You understand, Mr. Simmons, the things
4 he read there were just the highlights. Your complete
5 agreement with the government is controlled by all of the
6 written terms contained in these two documents, the plea
7 agreement and the plea supplement. Do you understand that?

8 **THE DEFENDANT:** Yes, I do, Your Honor.

9 **THE COURT:** Now, has anyone made any other or
10 different promises or assurances of any kind to you other than
11 those contained in the plea agreement and the plea supplement
12 in an effort to induce you to plead guilty in this case?

13 **THE DEFENDANT:** No, Your Honor.

14 **THE COURT:** Mr. Golden, is this the only formal plea
15 offer that was exchanged?

16 **MR. GOLDEN:** Yes, Your Honor.

17 **THE COURT:** Is that correct, Mr. Hightower?

18 **MR. HIGHTOWER:** Yes, Your Honor.

19 **THE COURT:** Mr. Simmons, has anyone attempted in any
20 way to force you or threaten you to plead guilty in this case?

21 **THE DEFENDANT:** No, Your Honor.

22 **THE COURT:** Are you pleading guilty of your own free
23 will because you are in fact guilty?

24 **THE DEFENDANT:** Yes, Your Honor.

25 **THE COURT:** Now, do you understand that the terms of

1 the plea agreement and the plea supplement are merely
2 recommendations to the Court, that I can reject those
3 recommendations without permitting you to withdraw your plea of
4 guilty and then impose a sentence that is more severe than you
5 may anticipate; do you understand that?

6 **THE DEFENDANT:** Yes, Your Honor.

7 **THE COURT:** Now, there are also some waivers
8 contained in the plea agreement. Mr. Golden mentioned them,
9 but I need to review them with you again to make sure you
10 understand them. These waivers appear at paragraph eight of
11 your plea agreement.

12 Do you understand that by entering into this plea
13 agreement and pleading guilty here today, you are going to
14 waive your right to appeal your conviction and sentence imposed
15 in this case or the manner in which the sentence is imposed on
16 any grounds whatsoever except for ineffective assistance of
17 counsel claims? Do you understand that?

18 **THE DEFENDANT:** Yes, I do, Your Honor.

19 **THE COURT:** You are also waiving the right to contest
20 the conviction and sentence or the manner in which the sentence
21 is imposed in any post-conviction proceeding, including but not
22 limited to a motion brought under Title 28, United States Code,
23 Section 2255, except for ineffective assistance of counsel
24 claims. Do you understand that?

25 **THE DEFENDANT:** Yes, I do, Your Honor.

1 **THE COURT:** You are waiving the right to seek
2 attorney's fees or costs in this case, and you are
3 acknowledging that the government's position in this case was
4 not vexatious, frivolous or in bad faith. Do you understand
5 that?

6 **THE DEFENDANT:** Yes, I do, Your Honor.

7 **THE COURT:** You are waiving all rights, whether
8 asserted directly by you or through a representative to request
9 or receive from any department or agency of the United States
10 any records pertaining to the investigation or prosecution of
11 this case. Do you understand that?

12 **THE DEFENDANT:** Yes, I do, Your Honor.

13 **THE COURT:** You are also acknowledging and agreeing
14 that any factual issues regarding your sentencing will be
15 decided by the sentencing judge under a preponderance of the
16 evidence standard, which is a lower standard of evidence than
17 would apply at a jury trial. Do you understand that?

18 **THE DEFENDANT:** Yes, I do, Your Honor.

19 **THE COURT:** You are also waiving any right to have a
20 jury decide any of these sentencing issues. Do you understand
21 that?

22 **THE DEFENDANT:** Yes, I do, Your Honor.

23 **THE COURT:** Finally, you are agreeing that in making
24 its sentencing decision, the Court may consider any relevant
25 evidence without regard to whether that evidence would be

1 admissible under the rules of evidence that would apply at a
2 trial. Do you understand that?

3 **THE DEFENDANT:** Yes, I do, Your Honor.

4 **THE COURT:** Have you read each and every one of these
5 waivers, Mr. Simmons?

6 **THE DEFENDANT:** Yes, I have, Your Honor.

7 **THE COURT:** Have you discussed them with your
8 attorney and asked him any questions you may have had about
9 them?

10 **THE DEFENDANT:** Yes, I have, Your Honor.

11 **THE COURT:** Did you understand his answers?

12 **THE DEFENDANT:** Yes, I do, Your Honor.

13 **THE COURT:** Do you understand the consequences of
14 these waivers?

15 **THE DEFENDANT:** Yes, I do, Your Honor.

16 **THE COURT:** Do you fully and completely understand
17 and knowingly and voluntarily agree to all of these waivers,
18 along with all of the other terms of the plea agreement and the
19 plea supplement?

20 **THE DEFENDANT:** Yes, I do, Your Honor.

21 **THE COURT:** Mr. Hightower, are you satisfied that
22 your client fully and completely understands and knowingly and
23 voluntarily agrees to all of the waiver terms along with all of
24 the other terms of the plea agreement and the plea supplement?

25 **MR. HIGHTOWER:** Yes, Your Honor, I'm satisfied.

1 **THE COURT:** At this time, I will accept the plea
2 agreement and plea supplement and direct that they be filed
3 into the record. Further, pursuant to local Court rule, the
4 plea supplement will be filed under seal.

5 Mr. Simmons, do you understand that the offense to which
6 you are seeking to plead guilty here today is a felony offense,
7 and that if your plea is accepted by the Court, you will be
8 adjudged guilty of that offense, and such adjudication of guilt
9 may deprive you of valuable civil rights, such as the right to
10 vote, the right to hold public office, the right to serve on a
11 jury, and the right to possess any kind of firearm. Do you
12 understand that, sir?

13 **THE DEFENDANT:** Yes, I do, Your Honor.

14 **THE COURT:** I'm required to inform you of the maximum
15 possible penalties to which you would be exposed by pleading
16 guilty to this charge. The one-count information charges you
17 with violating Title 18, United States Code, Section 666(a)(2),
18 bribery. If you plead guilty to this charge, the maximum
19 possible penalties to which you would be exposed by pleading
20 guilty would be as follows: A term of imprisonment of not more
21 than ten years, a fine of up to \$250,000, a term of supervised
22 release of not more than three years, and a 100-dollar special
23 assessment. Do you understand that those are the maximum
24 possible penalties to which you would be exposed by pleading
25 guilty to this charge?

1 **THE DEFENDANT:** Yes, I do, Your Honor.

2 **THE COURT:** Have you discussed them with your
3 attorney and asked him any questions you may have had about
4 them?

5 **THE DEFENDANT:** Yes, I do, Your Honor.

6 **THE COURT:** Did you understand his answers?

7 **THE DEFENDANT:** Yes, I do.

8 **THE COURT:** Mr. Hightower, are you satisfied your
9 client understands these maximums possible penalties?

10 **MR. HIGHTOWER:** Yes, I am, Your Honor.

11 **THE COURT:** Now, do you also understand, Mr. Simmons,
12 that a term of supervised release is or may be imposed in
13 addition to any sentence of imprisonment. Do you understand
14 that?

15 **THE DEFENDANT:** Yes, I do, Your Honor.

16 **THE COURT:** And what supervised release is is a
17 period of time following your release from any term of
18 imprisonment during which your activities would be monitored
19 and supervised by the U.S. Probation Office. Do you understand
20 that?

21 **THE DEFENDANT:** Yes, I do, Your Honor.

22 **THE COURT:** And do you also understand that if you
23 violate any of the conditions of your supervised release, you
24 could be subjected to imprisonment for the entire term of
25 supervised release without credit for any time you might have

1 already served on that term of supervised release. Do you
2 understand that?

3 **THE DEFENDANT:** Yes, I do, Your Honor.

4 **THE COURT:** Also, if applicable, the Court may order
5 or may be required to order you to make restitution to any
6 victims of this offense. Do you understand that?

7 **THE DEFENDANT:** Yes, I do, Your Honor.

8 **THE COURT:** And if the offense involved fraud or
9 other intentionally deceptive practices, the Court may also be
10 required to order you to provide notice of your conviction to
11 any victims of the offense. Do you understand that?

12 **THE DEFENDANT:** Yes, I do, Your Honor.

13 **THE COURT:** And again, Mr. Golden, I understand
14 forfeiture is not an issue in this case; is that correct?

15 **MR. GOLDEN:** That is correct.

16 **THE COURT:** Also, for each offense, Mr. Simmons, you
17 must pay a special assessment of \$100 per count, which in this
18 case, because you are pleading guilty to one count, would be
19 \$100. Do you understand that?

20 **THE DEFENDANT:** Yes, I do, Your Honor.

21 **THE COURT:** Do you understand all of these possible
22 consequences of your plea here today?

23 **THE DEFENDANT:** Yes, I do, Your Honor.

24 **THE COURT:** And have you discussed them with your
25 attorney and asked him any questions you may have had about

1 them?

2 **THE DEFENDANT:** Yes, I have discussed it with him.

3 Thank you.

4 **THE COURT:** And you understood his answers?

5 **THE DEFENDANT:** Yes, I do.

6 **THE COURT:** Now, under the Sentencing Reform Act of
7 1984, the United States Sentencing Commission has issued
8 sentencing guidelines for judges to follow to determine the
9 sentence in a criminal case. Your sentence in this case will
10 be determined by considering a combination of these sentencing
11 guidelines which are advisory, possible authorized departures
12 from those guidelines, and other statutory sentencing factors
13 set forth by Congress at Title 18, United States Code, Section
14 3553. Have you and your attorney talked about how the
15 sentencing guidelines might apply to your case?

16 **THE DEFENDANT:** Yes, we have, Your Honor.

17 **THE COURT:** And do you understand that the Court will
18 not be able to determine the guideline sentence range for your
19 case until after the probation office has prepared a
20 presentence report and you and the government have both had an
21 opportunity to review that report and to challenge or object to
22 the reported facts and the proposed application of the
23 sentencing guidelines recommended by the probation officer. Do
24 you understand that?

25 **THE DEFENDANT:** Yes, I do, Your Honor.

1 **THE COURT:** Do you also understand that the sentence
2 ultimately imposed by the Court may be different from any
3 estimate that your attorney may have given you? Do you
4 understand that?

5 **THE DEFENDANT:** Yes, I do, Your Honor.

6 **THE COURT:** Also, after your initial advisory
7 sentencing guideline range has been determined, the Court has
8 the authority under some circumstances to depart upward above
9 the guideline range or downward below the guideline range, and
10 the Court will also examine the other statutory sentencing
11 factors found at Title 18, United States Code, Section 3553,
12 and this could result in the imposition of a sentence that is
13 either greater than or lesser than the advisory sentencing
14 guideline range. Do you understand that?

15 **THE DEFENDANT:** Yes, I do, Your Honor.

16 **THE COURT:** And do you also understand that the
17 Court, in its discretion, could sentence you up to the maximum
18 prison sentence provided by statute, which in this case is ten
19 years. Do you understand that?

20 **THE DEFENDANT:** Yes, I do, Your Honor.

21 **THE COURT:** Do you also understand that parole has
22 been abolished, and that if you are sentenced to prison, you
23 will not be released on parole. Do you understand that?

24 **THE DEFENDANT:** Could you state that again? I missed
25 it.

1 **THE COURT:** Parole has been abolished, and if you are
2 sentenced to prison, you will not be released on parole. Do
3 you understand that?

4 **THE DEFENDANT:** Yes, I understand that, Your Honor.

5 **THE COURT:** If you have any questions about that that
6 you want to talk to your lawyer about, I will give you a break,
7 if you want to do that.

8 (Defendant confers with Mr. Hightower.)

9 **THE DEFENDANT:** Yes, I understand, Your Honor.

10 **THE COURT:** Okay. All right. Now, you are also
11 waiving some constitutional rights by pleading guilty here
12 today. I want to review those with you as well to make sure
13 you understand them.

14 Do you understand that you have a right to plead not
15 guilty to any offense charged against you and to persist in
16 that plea? Do you understand that, Mr. Simmons?

17 **THE DEFENDANT:** Yes, I do, Your Honor.

18 **THE COURT:** You would then have a right to a trial by
19 a jury. Do you understand that?

20 **THE DEFENDANT:** Yes, I do, Your Honor.

21 **THE COURT:** And at that trial, you would be presumed
22 to be innocent, and the government would have to prove your
23 guilt beyond a reasonable doubt. Do you understand that?

24 **THE DEFENDANT:** Yes, I do, Your Honor.

25 **THE COURT:** You would have the right to the

1 assistance of counsel for your defense at trial and at every
2 stage of the proceedings, and if necessary, the Court would
3 appoint an attorney for you. Do you understand that?

4 **THE DEFENDANT:** Yes, I do, Your Honor.

5 **THE COURT:** You would have the right to see and hear
6 all of the witnesses who testify and to have them
7 cross-examined in your defense. Do you understand that?

8 **THE DEFENDANT:** Yes, I do, Your Honor.

9 **THE COURT:** You would have the right to the issuance
10 of subpoenas or compulsory process to compel witnesses to
11 attend to testify in your defense. Do you understand that?

12 **THE DEFENDANT:** Yes, I do, Your Honor.

13 **THE COURT:** You would have the right on your own part
14 to refuse to testify unless you voluntarily elected to do so in
15 your own defense. Do you understand that?

16 **THE DEFENDANT:** Yes, I do, Your Honor.

17 **THE COURT:** And if you decided not to testify or not
18 to put on any evidence whatsoever, those facts could not be
19 used against you. Do you understand that?

20 **THE DEFENDANT:** Yes, I do, Your Honor.

21 **THE COURT:** Do you further understand that by
22 entering a plea of guilty, if that plea is accepted by the
23 Court, there will not be a trial, and you will have waived or
24 given up your right to a trial, as well as all of the other
25 rights associated with a trial as I have just described them.

1 Do you understand that?

2 **THE DEFENDANT:** Yes, I do, Your Honor.

3 **THE COURT:** I'm required to inform you of the charge
4 to which you are seeking to plead guilty. You are seeking to
5 plead guilty to the one-count information which charges as
6 follows: At all times relevant to this information, the
7 Mississippi Department of Corrections, here after referred to
8 as MDOC, was a state government agency as that term is defined
9 in Section 666(d), Title 18, United States Code, which received
10 federal assistance in excess of \$10,000 during each one-year
11 period between 2007 and 2014, under federal programs providing
12 federal assistance to the MDOC. Harrison County, Mississippi
13 was a local government as that term is designed in Section
14 666(d), Title 18, United States Code, which received federal
15 assistance in excess of \$10,000 during each one-year period
16 between January 1, 2005 and December 31, 2012, under federal
17 programs providing federal assistance to Harrison County,
18 Mississippi.

19 Sentinel Offender Services, LLC, hereafter referred to as
20 Sentinel, was under contract since July, 2012 with the State of
21 Mississippi's MDOC to provide services -- to provide services
22 to aid in monitoring and managing offenders sentenced to
23 probation or parole. This monitoring contract was awarded by
24 the MDOC.

25 The defendant, Robert Simmons, was a local businessman

1 from Harrison County, Mississippi, who was paid a
2 4,000-dollar-a-month consulting fee from Sentinel. Since
3 approximately July 2012, Simmons provided monthly payments of
4 \$1,400 and no cents to the commissioner of the MDOC. These
5 monthly payments, otherwise known as kickbacks or bribes, were
6 deposited directly into the commissioner's bank accounts.
7 Simmons would accomplish this by making the bank deposits
8 utilizing branch locations in the coastal counties of
9 Mississippi.

10 Simmons set aside approximately 30 percent of his \$4,000 a
11 month consulting fee from Sentinel for taxes, and subsequently
12 split the remaining part of his fee with the commissioner of
13 the MDOC.

14 AJA Management and Technical Services, hereafter referred
15 to as AJA, was under contract for a period of 18 months to
16 provide construction management services to the MDOC for the
17 expansion of the East Mississippi Correctional Facility and the
18 Walnut Grove Youth Correctional Facility. Throughout this
19 18-month period of time, Simmons received a monthly consulting
20 fee from AJA of \$10,000. Every month a portion of Simmons'
21 consulting fee was paid to the commissioner of the MDOC. A
22 company obtained a contract to perform work on the East
23 Mississippi Correctional Facility and the Walnut Grove Youth
24 Correctional Facility. The company paid Simmons a consulting
25 fee for a period of ten months. Simmons paid the commissioner

1 of the MDOC a portion of Simmons' consulting fee on
2 approximately 20 occasions during this ten-month period of
3 time.

4 From approximately 2005 through 2011, Health Assurance,
5 LLC contracted with the Harrison County Jail to provide inmate
6 medical services. The owner of Health Assurance, LLC, paid
7 Simmons a consulting fee which at the end of the contract was
8 as high as \$10,000 a month. Throughout this period of time,
9 Simmons made payments in the amount of \$2,000 and no cents a
10 month to a Harrison County supervisor for assistance provided
11 in securing the contract at the Harrison County Jail for inmate
12 medical services.

13 Throughout the relevant time period referred to in
14 paragraph one of the information, the commissioner of MDOC
15 exercised influence in the awarding of contracts with the MDOC.
16 Throughout the relevant time period referred to in paragraph
17 two, a duly elected supervisor of Harrison County, Mississippi
18 exercised influence in the awarding of contracts with Harrison
19 County, Mississippi.

20 That beginning sometime in or about 2005 and continuing
21 until at least August 26, 2014, in Harrison County, in the
22 Southern Division of the Southern District of Mississippi and
23 elsewhere, Defendant Robert Simmons did knowingly and corruptly
24 give, offer and agree to give something of value to the
25 commissioner of the MDOC with intent to influence and reward

1 the commissioner of the MDOC in connection with the business
2 transaction and series of transactions of the Mississippi
3 Department of Corrections involving something of value of
4 \$5,000 or more, that is, the awarding and the retention of
5 contracts to Sentinel and AJA for various services more
6 particularly described in paragraphs three through eight.

7 That beginning sometime in or about 2005 and continuing
8 until at least 2014, in Harrison County, in the Southern
9 Division of the Southern District of Mississippi and elsewhere,
10 the Defendant Robert Simmons did knowingly and corruptly give,
11 offer and agree to give something of value to a duly elected
12 supervisor of Harrison County, Mississippi with intent to
13 influence and award the supervisor in connection with the
14 business transaction and series of transactions in Harrison
15 County, Mississippi involving something of value of \$5,000 or
16 more, that is, the awarding and the retention of contracts to
17 Health Assurance, LLC, for various services more particularly
18 described at paragraph 11, all in violation of Section
19 666(a)(2), Title 18, United States Code.

20 Mr. Simmons, have you seen the information against you in
21 this case?

22 **THE DEFENDANT:** Yes, I have, Your Honor.

23 **THE COURT:** And have you read this charge to which
24 you are seeking to plead guilty?

25 **THE DEFENDANT:** Yes, I have, Your Honor.

1 **THE COURT:** Did you have a full opportunity to
2 discuss the charge with your attorney and ask him any and all
3 questions you may have had about it?

4 **THE DEFENDANT:** Yes, I have, Your Honor.

5 **THE COURT:** Did you understand his answers?

6 **THE DEFENDANT:** Yes, I did, Your Honor.

7 **THE COURT:** Do you fully and completely understand
8 the charge against you in the one-count information?

9 **THE DEFENDANT:** Yes, I do, Your Honor.

10 **THE COURT:** Mr. Hightower, are you satisfied that
11 your client fully and completely understands the charge against
12 him in the information?

13 **MR. HIGHTOWER:** Yes, I am, Your Honor.

14 **THE COURT:** I also need to explain to you, Mr.
15 Simmons, the essential elements of the charge contained in the
16 information. These are the things the government would have to
17 prove, and it would have to prove them beyond a reasonable
18 doubt in order for you to be found guilty.

19 The information charges you with violating Title 18,
20 United States Code, Section 666(a)(2), which makes it a crime
21 for anyone to corruptly give, offer or agree to give anything
22 of value to any person with intent to influence or reward an
23 agent of an organization or of a state, local or Indian tribal
24 government or any agency thereof and receives more than \$10,000
25 in federal assistance in any one-year period in connection with

1 any business transaction or series of transactions of such
2 organization, government or agency involving anything of value
3 of \$5,000 or more.

4 In order for you to be found guilty of this charge, the
5 government must prove each of the following elements beyond a
6 reasonable doubt: First, that Christopher Epps was an agent of
7 the State of Mississippi and, more particularly, the
8 Mississippi Department of Corrections, an agency of the State
9 of Mississippi. In addition, that a former elected supervisor
10 was an agent of Harrison County, Mississippi and served on the
11 Board of Supervisors for the county.

12 Second, that the Mississippi Department of Corrections was
13 an organization of state government that received in every
14 one-year period, including the years 2011, 2012, 2013, and
15 2014, benefits in excess of \$10,000 under a federal program
16 involving a grant, contract and other forms of federal
17 assistance; that Harrison County, Mississippi is a local
18 political subdivision of the state of Mississippi that received
19 in every one-year period, including the years 2011, 2012, 2013,
20 and 2014, benefits in excess of \$10,000 under a federal program
21 involving a grant, contract and other forms of federal
22 assistance.

23 Third, that the defendant, and that would be you in this
24 case, corruptly gave, offered and agreed to give money to
25 Christopher Epps and a former elected member of the Harrison

1 County Board of Supervisors with the intent to influence and
2 reward them in connection with any business transaction or
3 series of transactions, which in the case of Christopher Epps
4 involved the Mississippi Department of Corrections, and in the
5 case of the former elected member of the Harrison County Board
6 of Supervisors involved the local political subdivision of the
7 state known as Harrison County.

8 And, fourth, that the business transaction and series of
9 transactions involved anything of value of \$5,000 or more.

10 Now, the term "agent" means a person authorized to act on
11 behalf of another person or a government, and in the case of an
12 organization or government includes a servant or employee and a
13 partner, director, officer, manager and representative.

14 The term "government agency" means a subdivision of the
15 executive, legislative, judicial or other branch of government,
16 including a department, independent establishment, commission,
17 administration, authority, board and bureau, and a corporation
18 or other legal entity established and subject to control by a
19 government or governments for the execution of a governmental
20 or intergovernmental program.

21 The term "local" means of or pertaining to a political
22 subdivision within a state.

23 The term "state" includes a state of the United States,
24 the District of Columbia and any commonwealth, territory or
25 possession of the United States.

1 The term "in any one-year period" means a continuance
2 period that commences no earlier than 12 months before the
3 commission of the offense or that ends no later than 12 months
4 after the commission of the offense. Such period may include
5 time both before and after the commission of the offense.

6 An act is corruptly done if it is done intentionally with
7 an unlawful purpose. The word "value" means the face, par,
8 market value or cost price, either wholesale or retail,
9 whichever is greater. It is not necessary to prove that a
10 defendant's conduct directly affected the federal funds
11 received by the agency under the federal program. However,
12 there must be some connection between the criminal conduct and
13 the organization of state or local government receiving federal
14 assistance.

15 In determining whether a defendant is guilty of this
16 offense, the government cannot rely upon and the Court will not
17 consider bona fide salary, wages, fees or other compensation
18 paid or expenses paid or reimbursed in the usual course of
19 business.

20 Now, those are the essential elements of the offense
21 charged in the information. Do you understand those, Mr.
22 Simmons?

23 **THE DEFENDANT:** Yes, I do, Your Honor.

24 **THE COURT:** Have you discussed them with your
25 attorney and asked him any questions you may have had about

1 them?

2 **THE DEFENDANT:** Yes, I have, Your Honor.

3 **THE COURT:** Did you understand his answers?

4 **THE DEFENDANT:** Yes, I do, Your Honor.

5 **THE COURT:** So do you understand what it is the
6 government would have to prove beyond a reasonable doubt before
7 a jury could convict you? Do you understand that?

8 **THE DEFENDANT:** Yes, Your Honor.

9 **THE COURT:** Do you fully and completely understand
10 the nature of the essential elements of the offense? Do you
11 understand those, Mr. Simmons?

12 **THE DEFENDANT:** Yes, I do, Your Honor.

13 **THE COURT:** Mr. Hightower, do you agree that your
14 client fully and completely understands the nature of the
15 offense, including its essential elements?

16 **MR. HIGHTOWER:** Yes, I do, Your Honor.

17 **THE COURT:** At this time, Mr. Simmons, I'm going to
18 ask the attorney for the government to state into the record
19 those facts that the government would be prepared to prove if
20 this case went to trial. I want you to listen carefully to
21 what he has to say, because when he is finished, I'm going to
22 ask you if you understand and agree with these facts. Mr.
23 Golden.

24 **MR. GOLDEN:** Your Honor, if the case were to go to
25 trial, the government would expect to demonstrate beyond a

1 reasonable doubt that the defendant, Robert Simmons, in
2 Harrison County in the Southern Division of the Southern
3 District of Mississippi and elsewhere, beginning in 2005 and
4 continuing through at least August 26, 2014, violated Title 18,
5 Section 666(a)(2). Specifically, between 2012 and August 2014,
6 Mr. Simmons was paid \$4,000 a month as a consultant for
7 Sentinel Offender Services, LLC -- Sentinel.

8 Since 2012, Sentinel was under contract with the
9 Mississippi Department of Corrections to provide services to
10 aid in the monitoring and managing of offenders sentenced to
11 probation or parole. Mr. Simmons deposited a portion of his
12 monthly pay, a kickback of \$1,400, directly into bank accounts
13 of Christopher Epps, the commissioner of the MDOC at bank
14 branch locations along the Mississippi Gulf Coast. Upon
15 depositing the money into Epps' account, Mr. Simmons would
16 typically send a text message which stated, "Count it 14 done"
17 or a variation of this message.

18 AJA Management and Technical Services, or AJA, provided
19 construction management services to the MDOC for the
20 construction of the 40 million-dollar expansion to the East
21 Mississippi Correctional Facility and a 40 million-dollar
22 expansion to Walnut Grove Youth Correctional Facility.
23 Throughout the 18-month period of construction, Mr. Simmons
24 received a monthly consulting fee from AJA of \$10,000. Every
25 month a portion of Mr. Simmons' consulting fee was paid to the

1 commissioner of the MDOC.

2 From approximately 2005 through 2011, Health Assurance,
3 LLC, contracted with the Harrison County Jail to provide inmate
4 medical services. The owner of Health Assurance, LLC paid Mr.
5 Simmons a consulting fee which at the end of the contract was
6 as high as 10,000 a month. Throughout this period of time, Mr.
7 Simmons made payments in the amount of \$2,000 a month to a
8 Harrison County supervisor for assistance in providing and
9 securing the contract at the Harrison County Jail for inmate
10 medical services.

11 Throughout the relevant time period, the commissioner of
12 the MDOC exercised influence in the awarding of contracts with
13 the MDOC. In return for these contracts and in order to secure
14 future contracts and favors, Mr. Simmons began paying
15 Commissioner Epps.

16 In July 2012, Sentinel was competing against 3M for the
17 MDOC contract. Mr. Epps, the commissioner of the MDOC met with
18 a codefendant or someone who was charged in Jackson by the name
19 of Cecil McCrory, who was the consultant for 3M at that time.
20 Mr. Epps told Mr. McCrory that McCrory had made enough money
21 and that Epps felt obliged to help Simmons by awarding the
22 contract to Sentinel.

23 During the time period of the conspiracy, McCrory, in
24 addition to Mr. Simmons, also gave cash bribes and kickbacks to
25 Commissioner Epps which Commissioner Epps put in his safe at

1 home until he was ready to deposit such cash into various banks
2 and investment accounts. Mr. Epps electronically transferred
3 money between his commingled accounts and his investment
4 account in order to conceal and disguise the bribes and conduct
5 other financial transactions with the bribe proceeds by
6 structuring the purchase of cashier's checks and depositing
7 those checks into his Edward Jones investment account or toward
8 the payment of his Mercedes Benzes.

9 In summary, Mr. Simmons paid bribes and kickbacks to a
10 former Harrison County supervisor and to the Commissioner of
11 the Mississippi Department of Corrections within the relevant
12 period of the indictment. In exchange, Robert Simmons
13 benefited as a consultant for AJA and Sentinel. He also
14 benefited as a consultant for Health Assurance, LLC.

15 All of this would be proven by the testimony of others
16 involved in the activity, such as Mr. Epps, such as other
17 individuals mentioned in this factual basis.

18 In exchange, we would also put forth that the FBI agents
19 in this case, Tye Breedlove and Molly Blythe, would testify,
20 along with others. The government would introduce video and
21 audio recordings, records obtained through the grand jury
22 process, conversations captured on a court-ordered wire tap
23 known as a T3, and other physical and documentary evidence.

24 Mr. Simmons said that he knew that it was wrong to deposit
25 the kickback money into Epps' account but believed it was the

1 cost of doing business in Mississippi.

2 Importantly, the government would also introduce documents
3 and offer testimony that both Harrison County and the
4 Mississippi Department of Corrections received more than
5 \$10,000 during each one-year period beginning in 2008 and
6 continuing through 2014. Once Mr. Simmons was confronted with
7 the evidence against him, he cooperated with authorities by
8 outlining the totality of his criminal conduct and by
9 participating, when it was possible for him to do so, in
10 efforts by law enforcement to document the illegal activities
11 of others abusing the public trust. That's basically what the
12 government would prove if the case were to go to trial.

13 **THE COURT:** All right. And just if you can,
14 elaborate a little further, Mr. Golden, on -- to establish that
15 the transaction or series of transactions involved anything of
16 value of \$5,000 or more, what would be the government's method
17 of establishing that?

18 **MR. GOLDEN:** The information in the indictment
19 reflects that these are substantial amounts of money that were
20 involved in the contract, well into the millions of dollars
21 with regard to each one of those. That's what I mean by the
22 government would introduce a number of documents and also the
23 testimony of witnesses with regard to that element of the
24 crime.

25 **THE COURT:** Okay. All right. Mr. Simmons, did you

1 hear everything the attorney for the government had to say?

2 **THE DEFENDANT:** Yes, I did, Your Honor.

3 **THE COURT:** Did you understand everything he had to
4 say?

5 **THE DEFENDANT:** Yes, I do, Your Honor.

6 **THE COURT:** Do you agree with those facts?

7 **THE DEFENDANT:** Yes, I do.

8 **THE COURT:** And is that in fact what happened in this
9 case?

10 **THE DEFENDANT:** Yes, it is, Your Honor.

11 **THE COURT:** Mr. Simmons, in a moment, I'm going to
12 ask you for your plea to the one-count information, whether it
13 is guilty or not guilty. Before I do that, is there anything
14 that you have not understood or that you would like to discuss
15 further with your attorney?

16 **THE DEFENDANT:** No, Your Honor.

17 **THE COURT:** All right. Mr. Simmons, how do you now
18 plead to the charge contained in the one-count bill of
19 information; guilty or not guilty?

20 **THE DEFENDANT:** Guilty, Your Honor.

21 **THE COURT:** It is the finding of the Court in the
22 case of United States versus Robert Simmons, that having viewed
23 the defendant in court and considered his demeanor and
24 responses, the defendant is fully competent and capable of
25 entering an informed plea, that the defendant is aware of the

1 nature of the charges and the consequences of the plea, and
2 that the plea of guilty to the one-count bill of information is
3 a knowing and voluntary plea supported by an independent basis
4 in fact containing each of the essential elements of the
5 offense.

6 The plea is therefore accepted, and the defendant is now
7 adjudged guilty of that offense. Mr. Simmons, as I mentioned,
8 a written presentence report will need to be prepared by the
9 probation office to assist the Court in sentencing. You will
10 be asked to give information to the probation officer for this
11 report. It is very important that you provide complete and
12 truthful answers to the probation officer when you meet with
13 him or her. You may have your attorney present with you if you
14 wish when you meet with the probation officer, and you and your
15 attorney will be allowed to read the presentence report and
16 file any objections you may have to the presentence report
17 before the sentencing hearing.

18 You and your attorney will also have an opportunity to
19 speak on your behalf at the sentencing hearing before the Court
20 imposes any sentence. So when we finish here today, I will
21 refer you to Mr. Becker with the probation office to begin that
22 process.

23 Sentencing in this case will be on Thursday, May 26th,
24 2016 at 9:00 a.m. here in this courtroom. Thursday, May 26th,
25 2016, at 9:00 a.m. here in this courtroom.

1 And one thing I want to remind you of, Mr. Simmons, you
2 have now been adjudged guilty of a felony. One consequence of
3 that is that you no longer have the right to possess a firearm
4 of any kind for any purpose. Do you understand that, sir?

5 **THE DEFENDANT:** Yes, I do, Your Honor.

6 **THE COURT:** I understand the defendant has been on
7 bond pending this proceeding. Is there any objection to him
8 remaining on his current conditions of release?

9 **MR. GOLDEN:** No, Your Honor.

10 **MR. HIGHTOWER:** That is correct, Your Honor. A bond
11 was set previously in front of Judge Gargiulo, and we would
12 obviously ask that he remain free on bond.

13 **THE COURT:** Is probation aware of any issues that
14 would prevent him from remaining on his current conditions of
15 release?

16 **PROBATION OFFICER:** No, Your Honor.

17 **THE COURT:** All right. The Court finds, based upon
18 the provisions of the Bail Reform Act, there is sufficient
19 evidence in the record for the Court to conclude that the
20 defendant is not likely to flee or pose a danger to the safety
21 of any other person or the community. Therefore, the defendant
22 will be permitted to remain on his current conditions of
23 release pending sentencing.

24 Mr. Simmons, I want to remind you that your sentencing in
25 this case is Thursday, May 26, 2016, at 9:00 a.m.. Failure to

1 appear at the sentencing hearing as required is a criminal
2 offense for which you could be sentenced to imprisonment. All
3 conditions of your current release remain in place and must be
4 followed completely, and the penalties for violating those
5 conditions can be severe, including incarceration. Do you
6 understand that, sir?

7 **THE DEFENDANT:** Yes, I do, Your Honor.

8 **THE COURT:** Anything further at this time?

9 **MR. GOLDEN:** No, Your Honor.

10 **MR. HIGHTOWER:** No, Your Honor.

11 **THE COURT:** The Court will stand in recess. You are
12 excused.

13 (PLEA CONCLUDED)
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3 CERTIFICATE OF COURT REPORTER
4

5 I, Teri B. Norton, RMR, FCRR, RDR, Official Court
6 Reporter for the United States District Court for the Southern
7 District of Mississippi, appointed pursuant to the provisions
8 of Title 28, United States Code, Section 753, do hereby certify
9 that the foregoing is a correct transcript of the proceedings
10 reported by me using the stenotype reporting method in
11 conjunction with computer-aided transcription, and that same is
12 a true and correct transcript to the best of my ability and
13 understanding.

14 I further certify that the transcript fees and format
15 comply with those prescribed by the Court and the Judicial
16 Conference of the United States.

17
18
19

20 *S/ Teri B. Norton*
21 TERI B. NORTON, RMR, FCRR, RDR
22 OFFICIAL COURT REPORTER
23
24
25